

REMARKS

Claims 1, 3 and 4 are pending and under consideration in the above-identified application. Claims 2 and 5-46 were cancelled previously.

In the Office Action of September 20, 2010, claims 1, 3 and 4 were rejected.

With this Amendment, claims 1, 3 and 4 were amended. No new matter has been introduced as a result of the Amendment.

I. 35 U.S.C. § 112 Indefiniteness Rejection of Claims

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 was amended to clarify that the outermost surface is the outermost surface of the graphite material. Support for this amendment can be found on at least page 9 of the specification. Accordingly, the above rejection is now moot and Applicant respectfully requests that it is withdrawn.

II. 35 U.S.C. § 102 Anticipation Rejection of Claims

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 102(c) as being anticipated by Yoon et al. (U.S. Patent No. 6,482,547). Applicant respectfully traverses this rejection.

The claims require that G_s , which is the degree of graphitization of the outermost surface of the graphite material, is represented by the following ratio $G_s = H_{sg}/H_{sd}$.

This degree of graphitization of the outermost surface of the graphite material as required by the claims is not taught or suggested by Yoon et al. Rather, Yoon et al. teaches a separate intensity range for the crystalline graphite and the amorphous carbon. Yoon et al., Col. 6, lines 60-63. For example, the crystalline graphite range has an intensity range of $I(1360)/(1580)$ of a Raman Spectroscopy of less than 0.3, while the amorphous carbon has an intensity range of

I(1360)/(1580) of a Raman Spectroscopy of more than 0.2. Yoon et al., Col. 7, lines 9-15. As such, Yoon et al. does not teach or even fairly suggest a relationship, namely, $G_s = H_{sg}/H_{sd}$ for the outermost surface of the graphite material as required by the claims. Thus, Yoon et al. does not teach all the required limitations of the claims and therefore claims 1, 3 and 4 are patentable over the above cited reference. Accordingly, Applicant respectfully requests that the above rejections be withdrawn.

III. 35 U.S.C. § 103 Obviousness Rejection of Claims

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ueda et al. (U.S. Pat. No. 6,027,833) in view of Morita et al. (EP 0861804). Applicant respectfully traverses this rejection.

Ueda et al. teaches a ratio between the composite carbon particles, which are “highly crystalline carbon cores with a low crystallinity or amorphous carbon layer” and the carbon matrix, “which covers at least part of the composite carbon particles and uniformly disperses and holds the carbon particles therein.” Ueda et al., Col. 2, lines 56-64; col. 5, lines 45-63 (emphasis added). As such, Ueda et al. does not teach a relationship, namely, $G_s = H_{sg}/H_{sd}$ for the outermost surface of the graphite material as required by the claims. Instead, Ueda et al. teaches a ratio between the entire composite carbon particle and the carbon matrix. As such, Ueda et al. fails to teach or even fairly suggest all the required elements of the claims. According, the combination of Ueda et al. and Morita et al. also fails to teach or even fairly suggest all of the claim limitations. As such, claims 1, 3 and 4 are patentable over the cited references. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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